

Terms and Conditions

- a. Subscription Agreement
- b. Service Level Program
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a. Subscription Agreement

This Subscription Agreement (the "SA") sets forth the terms under which you, as a registered user may use certain Swissmeda Operated Products.

1. DEFINITIONS

1.1 "Registered User" means an individual to whom business partner grants access to use the applicable OnDemand Solution Package pursuant to an Order Form. Registered users are typically dentists, dental technicians, etc. A registered user or the entity he works for is a customer or partner of Swissmeda's customer (business partner). In order to get access to the Swissmeda operated site registered user needs to accept the conditions of this subscription agreement.

1.2 "Customer or Business Partner" means the legal entity Swissmeda operates the site for. In other words, Swissmeda does have a commercial relationship with "Customer", not with the registered user. Registered user has a commercial relationship with "Customer", also called "business partner" hereafter in this document for a better understanding of the relationship.

1.3 "Commercial Agreement" means, the commercial agreement you as a registered user agreed to with your business partner. The commercial agreement covers all aspects of costs associated with the utilization of the OnDemand solution package or services.

1.4 "Documentation" means the authorized user and installation guides and manuals that are delivered or made available by Swissmeda to the registered users, as well as the solution package descriptions made available on Swissmeda's documentation portal, for use with the OnDemand Solution Packages. Documentation for the Site will be provided electronically only.

1.5 "Fees" means the fees and/or costs stated in the commercial agreement between you (registered user) and your business partner.

1.6 "including" means "including but not limited to".

1.7 "Intellectual Property Right" means any patent, patent application, copyright, moral right, trade name, trademark, service mark, trade secret, and any applications or right to apply for registration therefore, internet domain names, logos, designs, slogans, and general intangibles of like nature, computer software programs or applications, tangible or intangible proprietary information, know-how, proprietary processes, formulae, algorithms, or any other intellectual property right, whether registered or unregistered, and whether first created before or after the Order Form Effective Date.

1.8 "OnDemand Solution Package" means a combination of access to a Site and the Enablement Services for the Site and any downloadable software, applets, etc.

1.9 "Operating Policies" means the operational guidelines and policies used by Swissmeda in the operation of its internal systems used to provide and support the OnDemand Solution Packages (and are the Security Policy, Service Level Program, and Data Policy and Privacy Statement), as updated from time to time.

1.10 "Site" means the Technology Features and the set of internet web pages through which the Technology Features can be accessed.

1.11 "Technology Features" means the most current version of remote-access electronic functionality for an OnDemand Solution Package as identified in the Documentation.

1.12 "Term" means Subscription Term or Services Term, as applicable.

1.13 "Usage Limit" means the usage limit(s) applicable to registered users use of the OnDemand Solution Packages as specified in the applicable commercial agreement (e.g., number of planning cases, termination/end dates, geographic reach, or otherwise).

2. USE OF ONDEMAND SOLUTION PACKAGES

2.1 Site Use. For each OnDemand Solution Package that registered user registers to, operated by Swissmeda, Business Partner grants registered user a non-exclusive, non-transferable right to access the associated Site. A registered user needs to be a specific person. A registered user is subject to the terms and conditions of the Agreement (including Usage Limits stated in the Order Form) and payment of all fees when due to as outlined in the commercial agreement. One

registered User account should not be shared or used by more than one user. Registered user shall be solely responsible for connection its computers to a telecommunications service that provides Internet access in a secure manner. All rights not expressly granted to registered users are reserved by Swissmeda.

2.2 General. As between the parties, Swissmeda retains all right, title, and interest to all Intellectual Property Rights in all: (i) OnDemand Solution Packages; (ii) Work Product developed by Swissmeda resulting from the Swissmeda Services; (iii) Swissmeda Confidential Information, and, (iv) any modifications to, copies of, or derivatives of any of the foregoing items listed in (i) through (iii). Registered user shall comply with the terms and use restrictions stated in this Agreement. The rights to use the OnDemand Solution Packages are also conditioned upon Customer's/business partner's payment of all fees to Swissmeda and registered user's payment of all Fees to the business partner.

2.3 Copyright. Registered user agrees to maintain the copyright, trademark and other notices that appear in the Swissmeda products on all associated media, screens and documents. Registered user does not acquire any rights on the Swissmeda Products other than as specified in this agreement. Registered user must not:

- i.) Reverse engineer, decompile, translate, disassemble or attempt to discover any source code or underlying ideas or algorithms of any Swissmeda product (except to the extend such restrictions are prohibited by applicable local law).
- ii.) Transfer, sell, lease, lend, disclose any amended or changed version of the software, which would undermine this agreement or harm the copy right of Swissmeda.
- iii.) Copying of all or parts of the software and the related data and documentation shall in principle not be permitted.

3. TERMINATION OR SUSPENSION

- 3.1 Termination of the Agreement or suspension of any access right shall not limit either party from pursuing other remedies available to it, including injunctive relief, nor shall such termination relieve registered user's obligation to pay all Fees that have accrued or are otherwise identified as being owed to Customer or Swissmeda, now or at some future date, under any Order Form.
- 3.2 After the termination of the agreement registered user has to delete all versions and copies of the downloaded software to ensure that Swissmeda does not encounter any commercial harm due to unlicensed versions of its software used outside of a commercial and/or Swissmeda managed subscription agreement.
- 3.3 A registered user can choose a username, user ID and password. Individuals may not share user IDs and passwords, this also applies for registered users working for the same company, clinic, or organization. The login is personally linked and shall under no circumstances be disclosure, shared or misused in any way to the disadvantage of Swissmeda. Any misuse will cause immediate lock-out and potentially termination of the account. Misuse is illegal and will be legally persecuted.

4 LIMITED WARRANTIES AND DISCLAIMERS

- 4.1 Swissmeda shall provide a warranty to the effect that the supplied software fulfils the functional and performance characteristics according to the respective user manual. However, Swissmeda shall not warrant that the downloaded software will work properly with programs, system platforms or operating systems provided by registered user, especially if these configurations differ from the minimum requirements recommended by Swissmeda in the user manual.
- 4.2 Site Limited Warranty. Swissmeda warrants that, during the applicable Subscription Term, the Site will conform in all material respects to the then current Documentation for the applicable Site. This limited warranty only covers problems identified in a Written Notice delivered to Swissmeda during the warranty period. Customer's and registered user's sole and exclusive remedy, and Swissmeda's entire liability for breach of this limited warranty, shall be correction of the warranted nonconformity in the Site or, if Swissmeda fails to correct the warranted nonconformity after using reasonable commercial efforts, Swissmeda will terminate access to the non-conforming Site and refund the subscription Fees for such Site (as identified in an applicable Order Form) paid by Customer for the remainder of the Subscription Term (beginning with the date Customer reported the nonconformity). This limited warranty shall not be valid to the extent the warranty nonconformity was caused by Customer's and/or registered users abuse, misuse, accident, alteration, or unauthorized modification or installation of the Site.
- 4.3 Swissmeda Services Limited Warranty. Swissmeda warrants that any Swissmeda Services will be performed in a workmanlike and professional manner consistent with generally accepted industry practices. For any breach of this services warranty, registered users exclusive remedy, and Swissmeda's entire liability, shall be the re-performance of such deficient Swissmeda Services; and if Swissmeda fails to re-perform such Swissmeda Services as warranted, registered user shall be entitled to recover the Swissmeda/customer's Services Fees paid to Swissmeda or customer for such deficient Swissmeda Services. Customer must identify in a Written Notice to Swissmeda any deficiencies in such Swissmeda Services within ninety (90) days of completion of such deficient Swissmeda Services in order to receive the above warranty remedies.

4.4 EXCEPT FOR THE EXPRESS LIMITED WARRANTIES PROVIDED IN THIS SECTION 4, THE ONDEMAND SOLUTION AND SWISSMEDA SERVICES ARE PROVIDED "AS IS," WITHOUT ANY WARRANTY WHATSOEVER. SWISSMEDA HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. SWISSMEDA DOES NOT WARRANT THAT THE ONDEMAND SOLUTION PACKAGES, DOWNLOADED SOFTWARE OR SWISSMEDA SERVICES, OR ANY PORTION THEREOF, ARE ERROR OR BUG FREE. REGISTERED USER ACKNOWLEDGES THAT SWISSMEDA DOES NOT CONTROL THE TRANSFER OF DATA OVER THE INTERNET, AND THAT SWISSMEDA IS NOT RESPONSIBLE FOR ANY DELAYS OR DELIVERY FAILURES CAUSED BY THE INTERNET.

5 LIMITATION OF LIABILITY

5.1 It is the registered users sole obligation and liability to manually crosscheck any work products produced by utilizing a Swissmeda solution. Every template has to be checked by the performing dentist before use. Inspecting how the safety pins have been hit by the positioning device of his service-center or dental-technician, the dentist has to estimate the possible error of the individual case. It is his sole decision and responsibility to decide based on his expert knowledge whether he can use the template or if it has to be redone. The service-center or dental-technician is responsible to check every cylinder after it has been fixed into the template adjusting the positioning device for this checking procedure. It is not Swissmeda's nor the business partner's responsibility to train, but the registered user and his partners are responsible to get appropriate training to be able to perform these checks. Not Swissmeda, nor the business partner can be made reliable in any way, if these mandatory tests have not been properly performed with successful results meeting the required level of accuracy and precision.

5.2 IN NO EVENT SHALL SWISSMEDA OR CUSTOMER (INCLUDING AS IT APPLIES TO SWISSMEDA'S THIRD PARTY PROVIDERS) BE LIABLE: (A) UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING REGISTERED USER'S LOST PROFITS, COST OF COVER, LOSS OR CORRUPTION OF DATA NOT BACKED UP BY REGISTERED USER, DATA INACCURACY CLAIMS, OR BREACHES IN SYSTEM SECURITY DESPITE SWISSMEDA FOLLOWING REASONABLE SECURITY TECHNIQUES, WHETHER OR NOT THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY, ARISING OUT OF OR IN CONNECTION WITH THESE TERMS; AND (B) FOR A TOTAL AND AGGREGATE LIABILITY AMOUNT UNDER THIS SA IN EXCESS OF (I) IN THE CASE OF SWISSMEDA, THE AMOUNT OF FEES PAID BY REGISTERED USER WITHIN ONE (1) YEAR PRIOR TO THE DATE OF SUCH CLAIM FOR THE APPLICABLE COMMERCIAL AGREEMENT GIVING RISE TO SUCH LIABILITY AND (II) IN REGISTERED USER'S CASE, AN AMOUNT EQUAL TO THE FEES PAID BY REGISTERED USER (AND ANY OWED BUT UNPAID FEES) WITHIN ONE (1) YEAR PRIOR TO THE DATE OF SUCH CLAIM FOR THE APPLICABLE ORDER FORM GIVING RISE TO SUCH LIABILITY.

5.3 The limitations set forth in section 5.1 (A) and (B) shall also apply to (i) damages due to bodily injury or death especially due to non utilization of test mechanism on the work results produced with the Swissmeda product, (ii) violation of Confidentiality.

6 CONFIDENTIALITY

6.1 A party (the "Discloser") may disclose to the other party (the "Recipient") information that the Discloser considers to be confidential and at the time of disclosure is identified as confidential and/or proprietary ("Confidential Information"). Notwithstanding anything to the contrary herein, Confidential Information shall be deemed to include the OnDemand Solution Packages in any embodiment, the terms and conditions of this SA (including pricing), and either party's technical and business information relating to inventions or software, research and development, future product specifications or geometries, methodologies, engineering processes, costs, profit or margin information, and marketing and future business plans. The parties agree, not to use or make each other's Confidential Information available to any third party for any purpose other than as set forth in the Agreement, without the prior consent of the other party; provided that: Swissmeda may disclose registered user's Confidential Information to its third party providers solely to the extent necessary to provide products or services in the interest of registered user under the Agreement, provided that Swissmeda has a non-disclosure agreement in place with such third party provider that protects such Confidential Information against disclosure in a manner no less protective than the Agreement. Recipient shall protect the Confidential Information of Discloser by using the same degree of care, but no less than a reasonable degree of care, that it uses to protect its own confidential information of a like nature to prevent its unauthorized use, dissemination or publication by its employees or agents. Both parties acknowledge that any breach of its obligations with respect to Confidential Information may cause the other irreparable injury for which there are inadequate remedies at law and that Discloser shall be entitled to seek equitable relief in addition to all other remedies available to it. Registered user shall not disclose the results of any performance tests of the OnDemand Solution Packages to any third party without Swissmeda's prior written approval. A party's Confidential Information shall not include information that: (i) is or becomes publicly available through no act or omission of Recipient; (ii) was in the Recipient's lawful possession prior to the disclosure and was not obtained by Recipient either directly or indirectly from the Discloser; (iii) is lawfully disclosed to the Recipient by a third party without restriction on Recipient's disclosure, and where Recipient was not aware that the information was the confidential information of Discloser; (iv) is independently developed by the Recipient without violation of this SA; or, (v) which is disclosed by Recipient as needed to comply with a court order, subpoena, or other government demand (provided that Recipient first notifies Discloser and gives Discloser the opportunity to challenge such court order, subpoena, or government demand). Notwithstanding anything to the contrary herein, Swissmeda may use all registered user's Data (i) in compliance with the Swissmeda Data Policy and Privacy Statement applicable to such OnDemand Solution Package or Swissmeda Services; and, (ii) as permitted under the terms of an Order Form. If registered user provides any feedback for or make recommendations for OnDemand Solution Packages, Swissmeda is free to use such feedback or recommendations in any manner, and Customer waives any interest in any OnDemand Solution Package modifications related to such feedback or recommendations.

6.2 Registered user acknowledges and agrees that data which identifies an individual provided to Swissmeda in the use of the OnDemand Solution Packages may be transferred outside of the country by Swissmeda and/or Swissmeda affiliates to Swissmeda processing centers or other countries to facilitate purposes permitted by the Agreement. Registered user shall take such steps as necessary to inform and receive consent for such processing as may be required under applicable data protection regulations. Swissmeda's obligations regarding data management, privacy and security shall be governed by the terms of the then-current Operating Policies.

7 TRADEMARKS

Neither party grants the other party any rights to use its trademarks, service marks, or other proprietary symbols or designations ("Trademarks") without the written consent of the other party, except as otherwise described herein. Neither party will combine the other's Trademarks so as to effectively create a unitary composite mark, nor shall it use any product name or trademark in a manner that is confusingly similar to the other party's Trademark.

8 FORCE MAJEURE

Neither party shall be liable to the other for failure or delay in the performance of a required obligation if such failure or delay is caused by riot, fire, flood, earthquake, natural disaster, terrorist attack, electronic virus, electronic attack or infiltration, internet disturbance, government act or other similar cause beyond such party's (the "Affected Party") control (collectively, a "Force Majeure Event"), provided that Affected Party gives prompt Written Notice of such condition, uses reasonable efforts to resume its full performance as soon as possible, and provided further that the other party (the "Non-Affected Party") may terminate the affected Order Form if such condition continues for a period of one hundred twenty (120) days. During the Force Majeure Event, the Non-Affected Party may similarly suspend its performance obligations, until such time as the Affected Party resumes its performance obligations.

9 REGISTERED USER'S CONTENT

9.1 Registered user agrees that Swissmeda may issue a news release regarding registered user's selection of the applicable OnDemand Solution Package or Swissmeda Service. Once a press release has been issued.

9.2 Registered user acknowledges that Swissmeda has the right, but no obligation, to monitor the Site and any of registered user's submitted data to the Site, and to comply with legal obligations concerning same, and to take such actions (including removing content or denying routing of certain data) if Swissmeda reasonably believes that such actions are needed to prevent unlawful activity relating to the Site.

9.3 Registered user shall have the sole responsibility and liability for the accuracy, legality, and integrity of registered user's Data, incl. DICOM data, planning data and/or any other data transactions.

10 MISCELLANEOUS

10.1 The failure of either party to act in the event of a breach of this SA by the other shall not be deemed a waiver of such breach or a waiver of future breaches, unless such waiver is provided to the other party in writing and signed by the party against whom enforcement is sought.

10.2 The OnDemand Solution Packages are of Swiss origin and may not be exported, re-exported, transferred, or used in violation of Swiss export law. Some OnDemand Solution Packages and/or Swissmeda Services may include the export of registered user's Data outside of Switzerland; therefore registered user must ensure that any Customer Data provided to Swissmeda does not contain any data that is controlled for export purposes by Switzerland or other applicable governments. This Section shall survive expiration or termination of this SA.

10.3 In the event of termination of this SA, the following terms will survive such termination and remain binding upon and for the benefit of the parties, their successors and permitted assignees: 1 Definitions, 2 Use of OnDemand Solution Package, 5 Limitation of Liability, 6 Confidentiality, 7 Trademarks, and 10 Miscellaneous.

10.4 Written Notices. All notices under this SA must (a) be in writing and in the English language; (b) be delivered by certified or registered mail, postage prepaid, return receipt requested or by an overnight courier services with delivery receipt; and (c) (in the case of a notice to Swissmeda) be sent to the attention of the CEO of Swissmeda at the address set forth on the Order Form to which the matter relates, and (in the case of a notice to Customer) be shall be sent to the address set forth in the address block in an applicable Order Form or to any other address Customer specifies in writing.

10.5 This SA shall be deemed to have been made in, and shall be construed pursuant to the laws of Switzerland applicable therein, excluding its conflict of laws provisions. The parties hereby specifically exclude from application to this SA the United Nations Convention on Contracts for the International Sale of Goods. Any legal action or proceeding relating to this SA shall be instituted in a state or federal court in Zurich, Switzerland, and each party hereby consents to personal jurisdiction. In any action to enforce the provisions of this SA the prevailing party shall be entitled to recover its reasonable attorney's fees and costs, including fees of retained expert witnesses, in connection with the resolution of such dispute. Each Party hereby irrevocably and unconditionally undertakes to take any and all steps which may be necessary in order to: (i) confer jurisdiction on the Selected Venue; and (ii) facilitate the enforcement, by a court where a Party is domiciled, of any judgment given by a court in the Selected Venue.

10.6 This SA shall not be construed against the party preparing it but shall be construed as if both parties jointly prepared this SA, and any uncertainty and ambiguity shall not be interpreted against any one party.

10.7 If any provision of this SA shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that this SA shall otherwise remain in full force and effect and remain enforceable between the parties.

10.8 The section headings appearing in this SA are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of such section or in any way affect such section.

10.9 The Agreement constitutes a complete, absolute integration and the entire agreement between the parties hereto relating to the subject matter of such Agreement, and supersedes all prior representations, proposals, discussions, and communications, whether oral or in writing, and all contemporaneous oral communications. Notwithstanding the content of

any purchase order, sale order, sale confirmation or any other document or web site relating to the subject matter of the Agreement, the Agreement shall take precedence over any such document, and any conflicting, inconsistent, or additional terms contained therein shall be null and void. In the event of a conflict between the terms and conditions of the SA and any individual Order Form, the Order Form shall govern. Neither party may without mutual written consent modify the terms of the SA or the terms of the Order Form.

10.10 **Third Party Websites.** A Site may allow access to other websites. These linked websites are not under the control of Swissmeda, and Swissmeda is not responsible for the contents of any linked website. Swissmeda provides links only as a convenience, and such inclusion of any link does not imply endorsement by Swissmeda of the linked website or any part of its contents.

b. Service Level Program

1. Solution Accessibility Warranty

- a. **Applicability.** The Server Solution Accessibility Warranty applies to the applicable Server Solution.
- b. **Scheduled Downtime.** When needed, Swissmeda will schedule downtime for routine maintenance or systems upgrades ("Scheduled Downtime") for the server Solution. Swissmeda shall exercise commercially reasonable efforts to schedule maintenance and system upgrades outside of peak traffic periods. Generally, such maintenance or system upgrades are scheduled to occur from Sunday, 8:00AM to Sunday 8:00PM CET (Central European Time) ("Maintenance Window"). Swissmeda reserves the right to extend or change the times of the Maintenance Window. Swissmeda will use commercially reasonable efforts to notify Customers and registered users at least 72 hours prior to the occurrence of Scheduled Downtime.
- c. **Exclusions.** In calculating the Inaccessibility Period, the following will not apply: (i) mere micro-outages (meaning, an inaccessibility that lasts less than fifteen (15) minutes, provided that there are no more than three (3) micro-outages within a calendar month); (ii) Scheduled Downtime for which Registered user has been notified at least one business day prior to such Scheduled Downtime; (iii) inaccessibility that is not the fault of Swissmeda (such as failures caused by factors not under Swissmeda's direct control, for example where caused by equipment or software under the control of a third party), and (iv) inaccessibility due to Customer request or where Customer approved in advance. Registered user shall be solely responsible for maintaining adequate controls over Registered user's Data transmissions to the Solution, for monitoring such transmissions, and for bringing to Swissmeda's attention any failure to access the Solution within (5) days of inception of any such event. Customer and it's registered users shall be solely responsible for setting applicable data processing and transmission parameters, for inspecting all data input and output for accuracy and completeness.

2. Security Elements.

The Solution contains the following security elements:

- a. **Physical Security.** The Solution is either under Swissmeda's control or is located at a secure, third party off-site facility. Access to the hardware, software, and other elements comprising the Solution is limited to authorized personnel only. Swissmeda uses servers with redundant features for maximum accessibility.
- b. **Disaster Recovery.** The Solution utilizes a disaster recovery plan to allow for Swissmeda to meet the Solution Accessibility Warranty stated in this Service Level Program.
- c. **Data Security.** Transactions made using the Solution are initially stored in a database to prevent loss. All Registered user Data resident on the systems is backed up daily. Backups include Registered user's registration, account information, DICOM data and other data. The Solution receives periodic preventive maintenance. This preventive maintenance is scheduled for times outside of peak traffic periods. As applicable, transaction queues wait while maintenance occurs, and they resume processing when maintenance concludes. Only the organizations involved in a planning case are permitted to see that case, except to the extent Swissmeda is asked to debug a technical issue and needs to access a case. As applicable [1], the Solution runs redundant copies of all of the critical software subsystems related to case routing. This redundancy enables fail-over in the event of an error so that disruption of the Solution is minimized.
- d. **Solution Security.** Swissmeda implements commercially available security software, hardware and techniques to minimize and prevent non-authorized use of the Solution. These include firewalls, intrusion detection software tools, and monitored use of the Solution. The Solution also performs authentication of interactive user sessions. For increased security, the Solution uses HTTPS, which is HTTP over SSL (Secure Sockets Layer). The SSL security protocol provides data encryption, server authentication, message integrity, and optional client authentication for TCP/IP connections. The Solution's Webservers use a server digital certificate to enable SSL connections.

3. Miscellaneous

- a. **Solution Integrity.** Registered user agrees not to: (i) use any device, software or technique to interfere with or attempt to interfere with the proper working of the Solution; (ii) post or send to the Solution anything that contains a virus, bug, cancelbot, worm, Trojan Horse or other harmful item; (iii) take any action which imposes an unreasonable or disproportionately large load on the Solution such that other users are adversely affected; or (iv) use any device or technology to provide repeated automated attempts to access password-protected portions of the Solution for which Registered user does not have a valid password issued to registered user by Swissmeda. Registered user may not allow any third parties to use Registered user's password without Swissmeda's prior written consent. Registered user also understands that Swissmeda cannot and does not guarantee or warrant that files or non-Swissmeda software of any kind, or from any source, available for downloading through the Solution, will be free of infection or viruses, worms, Trojan Horses or other code or defects that manifest contaminating or destructive properties. Registered user acknowledges that Swissmeda has the right, but no obligation, to take such actions related to use of the Solution (including but not limited to removing content or denying routing of certain data) if Swissmeda reasonably believes that such actions are needed to comply with the law.
- b. EXCEPT FOR THE EXPRESS SOLUTION ACCESSIBILITY WARRANTY STATED IN THIS SECTION 1, THIS DOCUMENT DOES NOT (I) CREATE ANY OTHER REPRESENTATION OR WARRANTY RELATED TO THE AVAILABILITY, ACCESSIBILITY, OR USABILITY OF THE SOLUTION; or (II) DIMINISH, ALTER OR NEGATE ANY OTHER EXPRESS WARRANTY(IES) IN ANY SIGNED AGREEMENT BETWEEN THE PARTIES. The remedies stated in Section 1 are Registered user's sole and exclusive remedies, and Swissmeda's sole liability, for failure to meet the warranties stated in section 1 above.

c. Data Policy and Privacy Statement

This document describes Swissmeda's policy for handling, processing, storing, and otherwise treating transactional and other data of Swissmeda Customers and/or registered users (which may be referred to as "you" throughout this document) when sent to Swissmeda as part of your use of the Solution.

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DEFINITIONS

"Solution" means the Implant Planning Module, the Template Design Module, the Shell for the Implant Planning Module, and the administrative module that holds all customer relationships, data, incl. commercial details.

"Registered User" means an entity you or your company provides access to the solution.

Swissmeda Customers or registered users may be referred to as "you" throughout this document. Individual users of the Solutions (whether employees of the customer organization) collectively and individually may also be referred to as "you" and "your" throughout this document.

When using the Solution, Swissmeda collects information that you, your employer, or a registered user, or other data sources send to the Solution (such as internet-protocol addresses, transaction-related data, and user account information). This data is addressed below in two categories, **Transaction Data** (as defined below) and **Personal Information** (data that can identify an individual or that is associated with the identity of an individual).

TRANSACTION DATA HANDLING

Swissmeda understands the sensitive nature of the transaction data you or your organization may provide while using the Solution. Transaction Data may include information you provide to Swissmeda or your registered users during the registration, uploading of DICOM data, implant planning, or through any e-mail or other communication sent by you to the Solution as well as other information that you store within the Solution. It may also include data of transactions sent by your registered users to you or between registered users via the Solution or by you to your registered users via the Solution. Transaction data may include Personal Information addressed more specifically below.

Data Use by Swissmeda

Swissmeda will treat your Transaction Data as confidential information and will use it only to: facilitate operation of the Solution and its related services; enhance your use of the Solution and its related web pages; perform internal tracking and Solution improvement; analyze the extent to which you use the Solution (e.g., the volume and history); enable us to contact you; and process your transactions through the Solution.

Swissmeda may use the information submitted by you or your registered users in aggregation to determine general medical trends for research purposes or improvement of the Swissmeda Service only. Swissmeda may also use such information in the publication of "high level" medical research project, provided that such publication (i) does not directly or indirectly identify individual cases, you as a customer or any of your registered users by name or provide a third party with sufficient information to allow a third party to identify any individual or legal entity, (ii) is aggregated with data from at least four (4) comparable cases, (iii) does not specifically identify customer's or registered users products or services, or the prices of those products or services.

Business Contact Information

When a representative of a Customer or registered user creates a user or admin account on the Solution, Swissmeda asks for the name and contact information. The User Account information will be used by Swissmeda to contact the user with notices, service offerings and Solution administration purposes.

You should submit only publicly available, business contact information. Individual contact information submitted to the Solution should not include private home contact information you do not want to be contacted under.

Transaction Data and Third Parties

In using the Solution, you understand that Swissmeda will send your Transaction Data to your registered users (or others that you or your registered users authorize) and Swissmeda service providers in order to facilitate your transactions (cases).

Swissmeda's Commitment to Data Security

Swissmeda takes steps to appropriately safeguard credit card and remittance information using recommended industry encryption methods. We've designed our services so that these categories of information can only be viewed from within the Solution.

PERSONAL INFORMATION HANDLING AND PRICACY

Personal Information

"Personal Information" is a person's name and information associated with his or her personal identity as opposed to information associated with a business. Personal Information, such as name, business address, business email, and individually used corporate credit card number, may be required for use of some features of the Solution. If you do not want to provide Personal Information to Swissmeda or wish to have Swissmeda remove your Personal Information from the Solution, please contact your Swissmeda Account Administrator to find out if there is an optional way for you to perform the applicable function without submitting Personal Information.

Use of Personal Information by Swissmeda

Swissmeda will treat your Personal Information as confidential information and will use it only to: facilitate operation of the Solution and its related services; enhance your use of the Solution and its related web pages; perform internal tracking and Solution improvement; enable us to contact you; process your transactions through the Solution (including use of DICOM data, templates and document creation); and analyze the volume and history of your Solution usage. Some of our Solution areas utilize cookie technology for these same purposes. You may configure your browser to reject cookies, but this may affect your ability to utilize our Solution to the same extent as a user who accepts cookies. We do not link the information we store in cookies to Personal Information you submit while using the Solution.

Consent

By submitting Personal Information to the Solution, you are consenting to Swissmeda's collection, processing, storage, and use of that information in accordance with this Data Policy. Before providing, or allowing an employee to provide, Personal Information to the Solution, you need to obtain that individual's consent for the collection, transfer, processing, and use of that information in accordance with this Data Policy.

Transfer

The Solution is primarily located in and operated from Switzerland and Germany. The Controller of personal data processing through the Solution is Swissmeda, headquartered at Technoparkstrasse 1, 8005 Zurich, Switzerland. By submitting data to the Solution, you consent to having such data transferred to other countries than your home country and other Solution operation locations selected by Swissmeda, and Swissmeda's authorized service providers. Swissmeda Affiliates controlled by Swissmeda are located inside and outside the European Economic Area. Any transfer of Personal Information from the European Economic Area to Swissmeda Affiliates located in countries outside the European Economic Area, which may not provide for an adequate level of data protection within the meaning of the European Data Protection Directive, will be subject to a confirmation by Swissmeda that adequate safeguards are in place and a so-called data transfer agreement based on standard contractual clauses, as approved by the European Commission.

Correcting Account Information (Exercising Your Right to Access Personal Information)

You have a right to access and modify your Personal Information and to delete your Personal Information, subject to constraints identified below. To exercise these rights, Swissmeda has procedures to allow you to update Personal Information in a timely manner. In most Solutions, the administrative contact for your company can directly change most contact information by logging on to the Solution and managing your account profile directly. For certain Solutions, changes may be requested by calling Swissmeda customer support.

Swissmeda may refuse to give access to the Solution for legitimate reasons including delinquent payments on the account, a legal dispute, or security concerns. If you are unable to correct, update, or delete your personal information due to the fact that you are no longer an employee of the business that is the account holder, or your account has been terminated, you may contact Swissmeda at the address provided below. In each case, Swissmeda will take reasonable measures to accommodate your request or respond in writing with the legal basis for denying the request within thirty (30) days.

Disclosure by Swissmeda to Third Parties

Swissmeda does not provide your Personal Information to third parties, except as described elsewhere in this policy and in our contracts with our Customers, unless (1) you request or authorize it; (2) such disclosure is necessary to process transactions or provide services which you have requested (e.g., processing with credit card companies or settlement services with banks); (3) Swissmeda is compelled to do so by a governmental authority, regulatory body, or under subpoena or similar governmental request or to establish or defend a legal claim; or (4) the third party is acting as our agent or sub-contractor in performing services (e.g., Swissmeda's use of a third party telecommunications provider).

Security

Swissmeda uses industry standard security measures to protect Personal Information from unauthorized disclosure. Please see our Security Disclosure for information about the measures Swissmeda takes to address the security of the Solution and the protection of your Personal Information.

Data Retention

Swissmeda will retain Personal Information in active databases for varying lengths of time depending upon the specific Solution, type of data, and applicable law. The policy regarding data retention for each Solution is set forth in the documentation or terms for each Solution. Consistent with Swissmeda's backup and storage procedures and due to the close integration of data with the Solution, Personal Information might be stored by Swissmeda in backup logs and files for the duration necessary for legal requirements or the purposes described in this policy. However, Swissmeda makes no commitment to indefinitely store such data. During your subscription to the Solution, you will be able to access your Personal Information for a certain period based on the particular Solution that you purchased and the policies for the Solution and we suggest that inquiries be directed through the administrative contact for your company and directed to the Swissmeda Privacy Coordinator at the address designated below.

Data Storage and Retention

Swissmeda shall only be obligated and will only retain data (personal data as well as loaded data such as DICOM, plannings, ect.) during the subscription term of a registered user. After the subscription term ended or has been terminated, Swissmeda has the right to delete all data related to the registered user, who has chosen not to extend his subscription term. It is the registered user's obligations to download any relevant data before the end of the subscription term.

Changes to this Policy

From time to time Swissmeda will need to make changes to this policy. Some of the changes will be in response to changes in applicable laws and regulations. In addition, as Swissmeda adds new features and new services to a Solution, Swissmeda will continue to handle Personal Information consistently with this policy, but some changes or clarifications may be required.

If Swissmeda seeks to make a material change to Swissmeda's policy to allow use of Personal Information for a new, legitimate business purpose, Swissmeda will document the change to this Data Policy, note the date of the last update at the bottom of the policy, and send a notice to the user contacts on file. You are encouraged to check this policy occasionally to stay informed of any changes in our policies and procedures regarding Personal Information. For substantial and material changes to the Data Policy, Swissmeda will use reasonable efforts to provide notification to all affected users and suggest that such users review the updated Data Policy.

QUESTIONS

If you have questions, please send an e-mail to info@swissmeda.com.